App. F. IX-4

1937.
(cts)

le No. 34-37
erial Nos. 1-3

Previous References
36-32 (5, 7, 17, 18-22)
136-32 (1-4, 9-11)

Letter References.
Pris 79-403 C1-15

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Three.

Part B for August 1937.

SUBJECT.

Prevention of over-detention of Prisoners in Jails.

2) To The Registrar, High Court of Bombay.
No. P 832 of 10.8.37.

WD 0418—GPB—22,500—20-8-36

Approval of the action taken by the High Court in the matter.

3) To The Secy. to Govt.; Dy. Comrs of Dts.; I.G. of Police.
No. 833-43 of 10.8.37.

Memorandum to the effect that whenever persons find amount on account of fines, should communicate it at once to Jail authority, whether

Serial No.

to the provisions of the Civil Procedure Code (Sec 386) (proposed) (4) At present there is only a warrant form for the recovery of ~~amount~~ fine by the police as well as by the Dy Comms. This form enables the executing officers to recover the fine by distraining & selling moveable property of the prisoner. This form is correct so far as the police officer is concerned. But in the case of Dy Comms this form cannot be valid. He cannot distrain the moveables under Sec 386 of the Civil Pro Code. He can only apply to the Civil Court to execute the order for fine as if it were a decree amount. The warrant addressed to Dy Comms therefore has to be in a different form from the manual form 42. The High Court has now proposed to have a revised form 42 A to suit the case of when the warrant is addressed to Dy Comms. The proposed form 2 Hag 7 is suitable and may be sanctioned.

4) At present there is no rule compelling a police officer or a Dy Comms to intimate the recovery of the whole or part of the fine to the officer in charge of the jail where a prisoner is. But the existing Rule 8 of

NOTE—Contn. Sheet.

4 Prevention of the Overdetention of Prisoners

File No. 34 of 193 7

General and Revenue Secretariat

Serial No.

DEMAND'S OFFICE
3 AUG 1937
No. 811

sufficient to bind the Magistrate & Sessions Judges to do so. The High Court therefore requests Government to issue orders to My Commrs & police officers to report the recovery & the fine to the officer in charge of the jail where the prisoner is.

3) Adversarial Procedure. No orders are necessary regarding the issue of circulars by the High Court as per note 1 & 3.

The points on which orders are now required are 1) The approval of the form & the warrant (Form 42A) as at flag Z

2) The issue of executive instructions to the police & My Commrs. A draft circular is now submitted for orders.

2 draft orders and Instructions are for orders

Chief Secy)

hg
3/7

7) (1) Form of the warrant suggested by the High Court may be appd. 2-8-

(2) Circular instructions - Draft Subt for orders.

SECRETARY
2 AUG 19
GOVT. OF MYSORE.

1st member)

JJR
7/8

MK
2/8
BKR
3.8.37

MK
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Issue hg
9.8

General and Revenue Secretariat | of File No. 34 of 1937. | [App. F. III-2

Serial No.	
2	To The Registrar, H.C. No. P.832 of 10-8-37. Form of warrant proposed by H.C. sanctioned.
3	Do. Revenue The Revenue Comr. Deputy Comrs. of Districts. S. G. of Police No. P.833-43 of 10-8-37. Memorandum to the effect that whenever Revenue fine amount on account of prisoners, should communicate it at once to Jail authority, where he is kept.

NOTE—Contn. Sheet.

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R. O. C. No. 1132/35-36
~~Dis.~~
encls/ three

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore, 22nd July *193* 7.

FROM T. Shamiengar, Esq., B.A., B.L.,
~~A. Sundararaja Rao, Esq., B.A., B.L.,~~
~~S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,~~
Registrar, High Court of Mysore.

CHIEF SECRETARY * 23. JUL. 193. * GOVT. OF MYSORE

TO B.T. Kesavaiengar, Esq., B.A.,
Chief Secretary to the Government of Mysore,
Bangalore.

26/7 Mg

B. 136-32.

136-32-20
~~24-36-3~~

SIR,

I am directed to advert to your letter No. P. 6235, dated 16/17th March 1936, requesting the High Court, with a view to avoid recurrence of instances of overdetention of prisoners in Jails, to take necessary action (1) to draw the attention of Magistrates and criminal Court Judges to the Criminal Rules as regards prompt despatch of intimation of recovery of fine to the Superintendent of the Jail;

(2) to make specific rules requiring the authority recovering the fine, whether the District Superintendent of Police or the Deputy Commissioner or their subordinates, to give immediate intimation of recovery to the Court as well as the authority of the Jail or Lock-up where the prisoner is under detention;

(3) to draw the attention of the Magistrates and the Deputy Commissioners to the fact that fines in criminal Courts are not recoverable by revenue process;

(4) to provide a form for warrants which are to be issued under Section 386(1) (b), if considered necessary.

2. With reference to items (1) and (3) above, I am to state that the High Court is just issuing two Circulars on the Criminal Side, copies of which are enclosed for the information of the Government.

3. As regards item (4), I am to state that there is a form at page 75, Criminal Rules of Practice and Circular Orders, Vol.II,

Form

(Form 42, Criminal) which is all that is necessary where a Police Officer or any one else is to distrain and sell movable property. But there is no form requiring a Deputy Commissioner to proceed against the offender's movable or immovable property. The High Court therefore considers that the form, draft of which is attached, would do for the purpose, and should the form meet with the Government's approval the High Court will frame it under Section 55 of the Code of Criminal Procedure.

4. With regard to item No.(2), referred to in the opening paragraph of this letter, there are already in the Criminal Rules of Practice sufficient instructions to Judges and Magistrates regarding their duties in those matters. But there is nothing requiring either a Police Officer or the Deputy Commissioner to intimate the recovery of a fine or part of it to the officer in charge of the Jail where the prisoner is.

The High Court is of opinion that it cannot make any rule binding on, or issue orders to, either the Police or the Deputy Commissioners on the subject, and I am therefore to suggest to the Government that they might issue executive orders to the Police and to the Deputy Commissioners in the matter.

I have the honour to be,

Sir,

Your most obedient servant,

Registrar.

MRK

Rule 151

Warrant for levy of fine. Section 386, Cr.P. Code. Form No.42 A Criminal.

IN THE COURT OF

To the Deputy Commissioner of District..

Whereas .....of..... was on the .....day.....193 convicted before me of the offence of ....and was sentenced to rigorous / simple imprisonment for ....and to pay a fine of Rupees ....or in default of payment to undergo rigorous / simple imprisonment for .... and whereas the said ..... who is now confined in the jail at / lock-up ....., although required to pay the said fine, has not paid any part thereof; / has paid only Rs. towards the said fine;

This is to authorize and require you to - realise Rs..... by execution according to civil process against the movable or immovable property or both of the said ..... under Section 386 of the Code of Criminal Procedure.

Given under my hand and the seal of the Court this .....day of 193

Sessions Judge / Magistrate.

Registrar

VJC/2

IN THE HIGH COURT OF MYSORE AT BANGALORE.

CRIMINAL SIDE.

Circular No.

Dated 22nd July 1937.

The High Court desires to invite the attention of District Magistrates and Deputy Commissioners to the fact that, when a warrant is issued for the realization of a fine under Section 386(1) (b) of the Code of Criminal Procedure, the fine cannot be realized by revenue process, but application must be made by the Deputy Commissioner to a civil Court as provided in Section 386 of the Code of Criminal Procedure.

J. Shamanna
Registrar.

To

The District Magistrates of District
and all other Magistrates.

G. R. S. App. F VI—G 2]

SUBJECT .....

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Diary No. of letter replied to .....

Section Cb

File No. 34-37

Serial No. 2

General and Revenue Secretariat

( )

the 193

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue 10-8- 193 7.

Signed by Dy. S-S-R.

Read— Correspondence ending with letter R.O.C. No. 1132/35-36 dt 22-7-37 from the Registrar, High Court of Mysore intimating the action taken by the High Court to avoid recurrence of instances of ~~det~~ over-detention of prisoners in Order thereon.—No. jails and forwarding for approval a form of warrant for recovery of fine under Sec. 386 (1) (b) Cr. Pr. Code, ~~requiring a~~ by Dy. Commissioners ~~to proceed~~ against the offender's movable or ~~immovable property~~.

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette Kannada Part ?

Yes Z

No. 42 A. Criminal

9/8/37

-1-

Approved

2.8.37

civil secretary

by 2.8.

Wch 30.7.

The Registrar, High Ct of Mysore

List of Enclosure

Copied by

Examined by

WD 0158—GPB—15,000—13-8-34

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Read:-

Correspondence ending with letter R.O.C. No.1132/35-36, dated 22nd July 1937 from the Registrar, High Court of Mysore. intimating the action taken by the High Court to avoid recurrence of instances of over-detention of prisoners in jails and forwarding for approval a form of warrant No. 42.A Criminal for recovery of fine under Section 386 (1)(b) Cr. P.C. by Deputy Commissioners.

Order No. P 832 CS-34-37-2

Bangalore, dated the 9th August 1937.

A p p r o v e d.

10.8

Chief Secretary to Government.

To

The Registrar, High Court of Mysore.

TRM.2

SUBJECT:- Prevention of over-detention of prisoners in Jails.

No. P833-43 dt. 34-37-3
dt. 10.8-37

OFFICIAL MEMORANDUM

Instances have come to the notice of Government of over-detention of prisoners owing to non-receipt by the prison authorities of timely intimation of recovery of fines. Deputy Commissioners and Police Officers, whenever they realize fine amounts whether in full or in part by the execution of a warrant addressed to them by Magistrates and Sessions Judges under Section 386 of the Cr.Pr.Code should communicate forthwith the fact of realization and the amount realized to the court issuing the warrant and to the officer in charge of the Jail or Lock-up in order that the convicted person may not be detained in the prison on account of the fine no longer than is warranted.

B. O.

2.8.37

Chief Secretary to Govt.

2.8

Revenue Commissioner
Deputy Commissioners of Dts.
I.G.of Police.
Copy with cover letter to the Registrar, High Court.

Government of His Highness the Maharaja of My

General and Revenue Secretariat.

No. 1833-43 Bangalore, dated the 9th August 1937.

Cs-34-37-3.

Subject:- Prevention of over-detention of prisoners in Jails.

Official Memorandum.

Instances have come to the notice of Government of over-detention of prisoners owing to non-receipt of by the prison authorities of timely intimation of recovery of fines. Deputy Commissioners and Police Officers, whenever they realise fine amounts whether in full or in part by the execution of a warrant addressed to them by Magistrates and Sessions Judges under Section 386 of the Criminal Procedure Code should communicate forthwith the fact of realisation and the amount realised to the court issuing the warrant and to the officer in charge of the jail or Lock-up in order that the convicted person may not be detained in the prison on account of the fine longer than is warranted.

By Order,

Sd/-

for Chief Secretary to Government.

To

The Revenue Commissioner in Mysore.
" Deputy Commissioners of Districts.
" Inspector General of Police in Mysore.

Tr. 18